IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Civil Revision No.3089 of 2007

Date of Decision: October 15, 2007

Shri Krishan Institute of Engineering & another .....Petitioners

Versus

Mandeep Sharma .....Respondent

CORAM:- HON'BLE MR.JUSTICE S. D. ANAND

Present: Mr.VK Jindal, Advocate for the petitioners.

Mr.RK Malik, Advocate for the respondent.

S. D. ANAND, J.

1. A plea, preferred by the defendant-petitioners for rejection of the plaint under Order 7 Rule 11 read with Section 151 of the Code of Civil Procedure, did not find favour with the learned Trial Court, which (Trial Court) recorded that there are disputed questions of law and facts involved in the suit and maintainability of the suit cannot be adjudicated upon (at this stage of trial) in terms of the provisions aforementioned.

2. Learned counsel for the petitioners argues that the plaintiff-respondent was a contractual employee of the petitioners and the former cannot be held entitled to enforce a contract of private service.

3. The plea raised is bereft of merit. The plaintiff-respondent has raised a plea at the trial that he had been appointed to a regular post, that he had been confirmed on that post and that the impugned termination was violative of the principles of the relevant Security of Service Rules.

4. As against it, the plea of petitioner-defendants at the trial was that the plaintiff-respondent was a contractual employee, that the services had not been regularised and that he could not validly file a plea for enforcement of a contract for private service.

5. There are indeed disputed questions of law and facts involved in the case before the learned Trial Court. The adjudication thereof would be feasible only after the parties have had an opportunity to adduce evidence in support of their respective pleas. The Court would be required to record a finding about the nature of the appointment held by the plaintiff-respondent.

6. In the light of the foregoing discussion, the validity of the impugned order cannot be faulted on any valid score.

7. Dismissed.

(S. D. ANAND)
JUDGE

October 15, 2007
SRM

Note: Whether referred to reporter ? Yes/No